

APPENDIX A – FINAL RULES

Part 54 and Part 69 of the Code of Federal Regulations are amended as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citations continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

Subpart A – General Information

2. Section 54.5 is revised by adding the following definition:

§ 54.5 Terms and Definitions

* * *

Rate-of-Return Carrier. “Rate-of-return carrier” shall refer to any incumbent local exchange carrier not subject to price cap regulation as that term is defined in § 61.3(x) of this chapter.

* * *

Subpart D – Universal Service Support for High Cost Areas

3. Section 54.307 is revised by adding a third sentence to paragraph (a)(1), amending the second and third sentences of paragraph (b), and amending paragraph (c) as follows:

§ 54.307 Support to a competitive eligible telecommunications carrier.

(a) * * *

- (1) * * * A competitive eligible telecommunications carrier serving loops in the service area of a rate-of-return carrier shall be eligible receive Interstate Common Line Support for each line it serves in the service area in accordance with the formula in § 54.901 of this part.

(b) * * * For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this part, the carrier must report, by customer class, the number of working loops it serves in the service area, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must report the number of working loops it serves in the service area, by customer class if the non-rural telephone company receives Interstate Common Line Support pursuant to § 54.901 of this part and by disaggregation zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart, and the number of working loops it serves in each wire center in the service area. * * *

(c) A competitive eligible telecommunications carrier must submit the data required pursuant to section (b) of this section according to the schedule.

- (1) No later than July 31st of each year, submit data as of December 31st of the previous calendar year;
 - (2) No later than September 30th of each year, submit data as of March 31st of the existing calendar year;
 - (3) No later than December 30th of each year, submit data as of June 30th of the existing calendar year;
 - (4) No later than March 30th of each year, submit data as of September 30th of the previous calendar year.
4. Section 54.315 is revised by amending paragraphs (a), (b)(4), (c)(5), (e)(1), (e)(4) through (e)(7), and (f)(1) through (f)(4) as follows:

§ 54.315 Disaggregation and targeting of high-cost support.

(a) On or before May 15, 2002, all rural incumbent local exchange carriers and rate-of-return carriers for which high-cost universal service support pursuant to §§ 54.301, 54.303, and/or 54.305 of this subpart, subpart K of this part, and/or part 36 subpart F is available must select a disaggregation path as described in subsections (b), (c), or (d) of this section. In study areas in which a competitive carrier was designated as a competitive eligible telecommunications carrier prior to June 19, 2001, the rural incumbent local exchange carrier or rate-of-return carrier may only disaggregate support pursuant to subsections (b), (c), or (d)(1)(iii) of this section. A rural incumbent local exchange carrier or rate-of-return carrier failing to select a disaggregation path as described in subsections (b), (c), or (d) of this section by May 15, 2002, will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by a state commission as that term is defined in § 54.5 of this part.

(b) * * *

- (4) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier or rate-of-return carrier, the disaggregation and targeting of support under subsections (c) or (d) of this section.

(c) * * *

- (5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier or rate-of-return carrier, the disaggregation and targeting of support in a different manner.

* * *

(e) * * *

- (1) Support available to the carrier's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.

* * *

- (4) Per-line support amounts for each disaggregation zone shall be recalculated whenever the carrier's total annual support amount changes using the changed support amount and lines at that point in time.

- (5) Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the carrier's lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the carrier's total support.
 - (6) Until a competitive eligible telecommunications carrier is certified in a study area, monthly payments to the incumbent carrier will be made based on total annual amounts for its study area divided by 12.
 - (7) When a competitive eligible telecommunications carrier is certified in a study area, per-line amounts used to determine the competitive eligible telecommunications carrier's disaggregated support shall be based on the incumbent carrier's then-current total support levels, lines, disaggregated support relationships, and, in the case of support calculated under subpart K of this part, customer classes.
- (f) * * *
- (1) A carrier certifying under subsection (b) of this section that it will not disaggregate and target high-cost universal service support shall submit to the Administrator a copy of the certification submitted to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction.
 - (2) A carrier electing to disaggregate and target support under subsection (c) of this section shall submit to the Administrator a copy of the order approving the disaggregation and targeting plan submitted by the carrier to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction, and a copy of the disaggregation and targeting plan approved by the state commission or the Federal Communications Commission.
 - (3) A carrier electing to disaggregate and target support under subsection (d) of this section shall submit to the Administrator a copy of the self-certification plan including the information submitted to the state commission pursuant to subsections (d)(2)(i) and (d)(2)(iv) of this section or the Federal Communications Commission.
 - (4) A carrier electing to disaggregate and target support under subsection (c) or (d) of this section must submit to the Administrator maps which precisely identify the boundaries of the designated disaggregation zones of support within the carrier's study area.

Subpart H -- Administration

5. Section 54.701 is revised by amending paragraph (g)(1)(iii) as follows:

§ 54.701 Administrator of universal service support mechanisms.

* * *

(g)(1) * * *

(iii) The High Cost and Low Income Division, which shall perform duties and functions in connection with the high cost and low income support mechanism, the interstate access universal service support mechanism for price cap carriers described in subpart J of this part, and the interstate common line support mechanism for rate-of-return carriers described in subpart K of this part, under the direction of the High Cost and Low Income Committee of the Board, as set forth in § 54.705(c).

6. Section 54.702 is revised by amending paragraph (a) and the second sentence of paragraph (i) as follows:

§ 54.702 Administrator's functions and responsibilities.

(a) The Administrator, and the divisions therein, shall be responsible for administering the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism described in subpart J of this part, and the interstate common line support mechanism described in subpart K of this part.

* * *

(i) * * * The Administrator shall keep separate accounts for the amounts of money collected and disbursed for eligible schools and libraries, rural health care providers, low-income consumers, interstate access universal service support, interstate common line support, and high-cost and insular areas.

7. Section 54.705 is revised by amending paragraph (c)(1) as follows:

§ 54.705 Committees of the Administrator's Board of Directors.

* * *

(c) *High Cost and Low Income Committee*—(1) *Committee functions.* The High Cost and Low Income Committee shall oversee the administration of the high cost and low income support mechanisms, the interstate access universal service support mechanism for price cap carriers described in subpart J of this part, and the interstate common line support mechanism for rate-of-return carriers described in subpart K of this part by the High Cost and Low Income Division. The High Cost and Low Income Committee shall have the authority to make decisions concerning:

- (i) How the Administrator projects demand for the high cost, low income, interstate access universal service, and interstate common line support mechanisms;
- (ii) Development of applications and associated instructions as needed for the high cost, low income, interstate access universal service, and interstate common line support mechanisms;

* * *

- (iv) Performance of audits of beneficiaries under the high cost, low income, interstate access universal service and interstate common line support mechanisms; and
- (v) Development and implementation of other functions unique to the high cost, low income, interstate access universal service and interstate common line support mechanisms.

8. Section 54.715 is revised by amending the third sentence of paragraph (c) as follows:

§ 54.715 Administrative expenses of the Administrator.

* * *

(c) * * * The administrative expenses incurred by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism, and the interstate common line support mechanism shall be deducted from the annual funding of each respective support mechanism. * * *

9. Add subpart K to part 54 as follows:

Subpart K—Interstate Common Line Support Mechanism for Rate-of-Return Carriers

§ 54.901 Calculation of Interstate Common Line Support.

(a) Interstate Common Line Support available to a rate-of-return carrier shall equal the Common Line Revenue Requirement per Study Area as calculated in accordance with Part 69 of this chapter minus:

- (1) the study area revenues obtained from end user common line charges at their allowable maximum as determined by §§ 69.104(n) and 69.104(o) of this chapter;
- (2) the carrier common line charge revenues to be phased out pursuant to § 69.105 of this chapter;
- (3) the special access surcharge pursuant to § 69.114 of this chapter;
- (4) the line port costs in excess of basic analog service pursuant to § 69.130 of this chapter; and
- (5) any Long Term Support for which the carrier is eligible or, if the carrier ceased participation in the NECA common line pool after October 11, 2001, any Long Term Support for which the carrier would have been eligible if it had not ceased its participation in the pool.

(b) The per-line Interstate Common Line Support available to a competitive eligible telecommunications carrier serving lines in a study area served by a rate-of-return carrier shall be calculated by the Administrator as follows:

- (1) If the rate-of-return carrier has disaggregated the support it receives in the study area pursuant to § 54.315 of this part, the Administrator shall calculate the amount of Interstate Common Line Support targeted to each disaggregation zone by the rate-of-return carrier (targeted Interstate Common Line Support). If the rate-of-return carrier has chosen not to disaggregate its support for a study area pursuant to § 54.315, then the entirety of its Interstate Common Line Support for the study area shall be considered targeted Interstate Common Line Support for purposes of performing the calculations in this section.
- (2) In each disaggregation zone or undisaggregated study area, the Administrator shall calculate the Average Interstate Common Line Support by dividing the rate-of-return carrier's targeted Interstate Common Line Support by its total lines served.
- (3) The Administrator shall then calculate the Interstate Common Line Support available to the competitive eligible telecommunications carrier for each line it serves for each customer class in a disaggregation zone or undisaggregated study area by the following formula:
 - (i) If the Average Interstate Common Line Support is greater than \$2.70 multiplied by the number of residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, then:

- (A) Interstate Common Line Support per Multi-Line Business Line = (Average Interstate Common Line Support - \$2.70 x residential and single-line business lines served by the rate-of-return carrier) ÷ (total lines served by the rate-of-return carrier); and
 - (B) Interstate Common Line Support per Residential and Single-Line Business Line = Interstate Common Line Support per Multi-Line Business Line + \$2.70.
- (ii) If the Average Interstate Common Line Support is less than or equal to \$2.70 multiplied by residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, but greater than \$0, then:
- (A) Interstate Common Line Support per Multi-Line Business Line = \$0; and
 - (B) Interstate Common Line Support per Residential and Single-Line Business Line = Average Interstate Common Line Support ÷ residential and single line business lines served by the rate-of-return carrier.
- (iii) If the Average Interstate Common Line Support is equal to \$0, then the competitive eligible telecommunications carrier shall receive no Interstate Common Line Support for lines served in that disaggregation zone or undisaggregated study area.

§ 54.902 Calculation of Interstate Common Line Support for transferred exchanges.

(a) In the event that a rate-of-return carrier acquires exchanges from an entity that is also a rate-of-return carrier, Interstate Common Line Support for the transferred exchanges shall be distributed as follows.

- (1) Each carrier may report its updated line counts to reflect the transfer in the next quarterly line count filing pursuant to § 54.903(a) of this subpart that applies to the period in which the transfer occurred. During a transition period from the filing of the updated line counts until the end of the funding year, the Administrator shall adjust the Interstate Common Line Support received by each carrier based on the updated line counts and the per-line Interstate Common Line Support, categorized by customer class and, if applicable, disaggregation zone, of the selling carrier. If the acquiring carrier does not file a quarterly update of its line counts, it will not receive Interstate Common Line Support for those lines during the transition period.
- (2) Each carriers' projected data for the following funding year filed pursuant to § 54.903(c) of this subpart shall reflect the transfer of exchanges.
- (3) Each carriers' actual data filed pursuant to § 54.903(d) of this subpart shall reflect the transfer of exchanges. All post-transaction Interstate Common Line Support shall be subject to true up by the Administrator pursuant to § 54.903(e) of this subpart.

(b) In the event that a rate-of-return carrier acquires exchanges from a price cap carrier that are incorporated into one of the rate-of-return carrier's existing study areas, Interstate Common Line Support for the transferred exchanges shall be distributed as follows.

- (1) The acquiring carrier may report its updated line counts for the study area into which the acquired lines are incorporated in the next quarterly line count filing pursuant to § 54.903(a) of this subpart that applies to the period in which the transfer occurred. During a transition period from the filing of the updated line counts until the end of the funding year, the Administrator shall adjust the Interstate Common Line Support received by the acquiring carrier based on the updated line counts and the per-line amounts Interstate Common Line Support for the study area served by the acquiring carrier. If necessary, the Administrator

shall develop an average per-line support amount to reflect various per-line amounts in multiple disaggregation zones served by the acquiring carrier. If the acquiring carrier does not file a quarterly update of its line counts, it will not receive Interstate Common Line Support for those lines during the transition period.

- (2) The acquiring carrier's projected data for the following funding year filed pursuant to § 54.903(c) of this subpart shall reflect the transfer of exchanges.
- (3) The acquiring carrier's actual data filed pursuant to § 54.903(d) of this subpart shall reflect the transfer of exchanges. All post-transaction Interstate Common Line Support shall be subject to true up by the Administrator pursuant to § 54.903(e) of this subpart.

(c) In the event that a rate-of-return carrier acquires exchanges from a price cap carrier that are not incorporated into one of the rate-of-return carrier's existing study areas, Interstate Common Line Support for the transferred exchanges shall be distributed as follows.

- (1) The acquiring rate-of-return may submit to the Administrator a projected Interstate Common Line Revenue Requirement for the acquired exchanges for the remainder of the funding year in the next quarterly report to the Administrator. The Administrator shall distribute Interstate Common Line Support pursuant to the partial year projected Interstate Common Line Revenue Requirement for the remainder of the funding year. If the acquiring carrier does not file a projected Interstate Common Line Revenue Requirement, it will not receive Interstate Common Line Support for those exchanges during the transition period.
- (2) The acquiring carrier's projected data for the following funding year filed pursuant to § 54.903(c) of this subpart shall reflect the transfer of exchanges.
- (3) The acquiring carrier's actual data filed pursuant to § 54.903(d) of this subpart shall reflect the transfer of exchanges. All post-transaction Interstate Common Line Support shall be subject to true up by the Administrator pursuant to § 54.903(e) of this subpart.

(d) In the event that an entity other than a rate-of-return carrier acquires exchanges from a rate-of-return carrier, per-line Interstate Common Line Support will not transfer.

(e) This section does not alter any Commission rule governing the sale or transfer of exchanges, including the definition of "study area" in Part 36.

§ 54.903 Obligations of rate-of-return carriers and the Administrator.

(a) To be eligible for Interstate Common Line Support, each rate-of-return carrier shall make the following filings with the Administrator.

- (1) On March 31, 2002, each rate-of-return carrier shall submit to the Administrator the number of lines it serves as of September 30, 2001, within each rate-of-return carrier study area, by disaggregation zone if disaggregation zones have been established within that study area pursuant to § 54.315 of this part, showing residential and single-line business line counts and multi-line business line counts separately. For purposes of this report, and for purposes of computing support under this subpart, the residential and single-line business class lines reported include lines assessed the residential and single-line business End User Common Line charge pursuant to § 69.104 of this chapter, and the multi-line business class lines reported include lines assessed the multi-line business End User Common Line charge pursuant to § 69.104 of this chapter. For purposes of this report, and for purposes of computing support under this subpart, lines served using resale of the rate-

of return local exchange carrier's service pursuant to section 251(c)(4) of the Communications Act of 1934, as amended, shall be considered lines served by the rate-of-return carrier only and must be reported accordingly. Beginning July 31, 2002, each rate-of-return carrier shall submit the information described in this paragraph in accordance with the schedule in § 36.611 of this chapter.

- (2) Each rate-of-return carrier in service areas where a competitive eligible telecommunications carrier has initiated service and reported line count data pursuant to § 54.307(c) of this part shall submit the information in subsection (a) in accordance with the schedule in § 36.612 of this chapter. A rate-of-return carrier may submit the information in subsection (a) in accordance with the schedule in § 36.612, even if it is not required to do so. If a rate-of-return carrier makes a filing under this subsection, it shall separately indicate any lines that it has acquired from another carrier that it has not previously reported pursuant to subsection (a), identified by customer class and the carrier from which the lines were acquired.
- (3) Each rate-of-return carrier shall submit to the Administrator, on March 31, 2002, and annually thereafter on March 31st information needed to calculate the Projected Annual Common Line Revenue Requirement for each of its study areas in the upcoming funding year. A rate-of-return carrier's Projected Annual Common Line Revenue Requirement shall be calculated in accordance with Part 69 of this chapter. The funding year shall be July 1 of the current year through June 30 of the next year. Rate-of-return carriers will be permitted to submit corrections to their projected Annual Common Line Revenue Requirement until April 10, 2002, and annually thereafter until April 10th.
- (4) Each rate-of-return carrier shall submit to the Administrator, on July 31, 2003, and annually thereafter on July 31st, the carrier's common line costs as defined in part 69 of this chapter for each study area in which it operates for the previous calendar year. Such data shall be used by the Administrator to make adjustments to monthly per-line Interstate Common Line Support amounts in the following calendar year to the extent of any difference between the carrier's Projected Annual Common Line Revenue Requirement and the carrier's actual costs during the relevant period. A rate-of-return carrier may update the information submitted on July 31st one or more times quarterly on a rolling year basis according to the schedule in § 36.612 of this chapter.

(b) Upon receiving the information required to be filed in paragraph (a) of this section, the Administrator shall:

- (1) Perform the calculations described in § 54.901 of this subpart;
- (2) Publish the results of these calculations showing Interstate Common Line Support Per Line available in each rate-of-return carrier study area, by Disaggregation Zone and customer class;
- (3) Perform periodic reconciliation of projected common line revenue requirements based on data provided by carriers pursuant to paragraph (a)(3) and actual common line revenue requirements based on data provided by carriers pursuant to paragraph (a)(4);
- (4) Collect the funds necessary to provide support pursuant to this subpart in accordance with subpart H of this part;
- (5) Distribute support calculated pursuant to the rules contained in this subpart; and
- (6) Report quarterly to the Commission on the collection and distribution of funds under this subpart as described in § 54.702(i) of this part. Fund distribution reporting will be by state and by eligible telecommunications carrier within the state.

§ 54.904 Carrier certification.

(a) *Certification.* Carriers that desire to receive support pursuant to this subpart shall file a certification with the Administrator and the Federal Communications Commission stating that all Interstate Common Line Support provided to such carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to this subpart shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(b) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from an authorized representative for the carrier, and must be filed with both the Administrator and the Office of the Secretary of the Federal Communication Commission clearly referencing CC Docket No. 96-45, on or before the filing deadlines set forth below in subsection (d).

(c) All of the certifications filed by carriers pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing deadlines.* In order for a rate-of-return carrier, and/or an eligible telecommunications carrier serving lines in the service area of a rate-of-return carrier, to receive Interstate Common Line Support, such carrier must file an annual certification, as described in subsection (b) of this section, on the date that it first files its line count information pursuant to § 54.903 of this subpart, and thereafter on June 30th of each year.

PART 69 – ACCESS CHARGES

10. The authority citation continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

11. Section 69.2 is amended by adding a new paragraph (www) as follows:

§ 69.2 Definitions

(www) Interstate Common Line Support (ICLS) means funds that are provided pursuant to Section 54.901 of Part 54.

12. Section 69.4 is revised by amending paragraph (b)(2), deleting and reserving paragraph (c), amending paragraphs (d) and (g), and adding paragraph (j) as follows:

§ 69.4 Charges to be filed.

* * *

(b) * * *

(2) Carrier common line, provided that after June 30, 2003, non-price cap local exchange carriers may not assess a carrier common line charge;

* * *

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) [Reserved]

(2)(i) Local exchange carriers may recover their contributions to the universal service support mechanisms only through explicit, interstate, end-user charges assessed pursuant to either section 69.131 or section 69.158 that are equitable and nondiscriminatory.

(ii) Local exchange carriers may not recover any of their contributions to the universal service support mechanisms through access charges imposed on interexchange carriers.

* * *

(g) Local exchange carriers may establish appropriate rate elements for a new service, within the meaning of § 61.3(x) of this chapter, in any tariff filing.

(j) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service filed with this Commission by non-price cap local exchange carriers may include charges for each of the following elements:

- (1) Dedicated local switching trunk port;
- (2) Shared local switching trunk port;
- (3) Dedicated tandem switching trunk port;
- (4) Multiplexers associated with tandem switching;
- (5) DS1/voice grade multiplexers associated with analog switches; and
- (6) Per-message call setup.

13. Section 69.104 is revised by amending the first sentence of paragraph (a), amending paragraphs (c) through (f), deleting and reserving paragraphs (j) through (l), and adding new paragraphs (n) through (r) as follows:

§ 69.104 End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. * * *

* * *

(c) Until December 31, 2001, except as provided in § 69.104(d) through (h), the single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the End User Common Line element by the projected average number of local exchange service subscriber lines in use during such annual period.

(d)(1) Until December 31, 2001, if the monthly charge computed in accordance with § 69.104(c) exceeds \$6, the charge for each local exchange service subscriber line, except a residential line, a single-line business line, or a line used for Centrex-CO service that was in place or on order as of July 27, 1983, shall be \$6.

- (2) Until December 31, 2001, the charge for each subscriber line associated with a public telephone shall be equal to the monthly charge computed in accordance with paragraph (d)(1) of this section.

(e) Until December 31, 2001, the monthly charge for each residential and single-line business local exchange service subscriber shall be the charge computed in accordance with paragraph (c) of this section, or \$3.50, whichever is lower.

(f) Except as provided in § 54.403, the charge for each residential local exchange service subscriber line shall be the same as the charge for each single-line business local exchange service subscriber line.

* * *

(j) [Reserved.]

(k) [Reserved.]

(l) [Reserved.]

* * *

(n)(1) Beginning January 1, 2002, except as provided in paragraph (r), the maximum monthly charge for each residential or single-line business local exchange service subscriber line shall be the lesser of:

(i) one-twelfth of the projected annual revenue requirement for the End User Common Line element divided by the projected average number of local exchange service subscriber lines in use during such annual period; or

(ii) The following:

(A) Beginning January 1, 2002, \$5.00.

(B) Beginning July 1, 2002, \$6.00.

(C) Beginning July 1, 2003, \$6.50.

(2) In the event that GDP-PI exceeds 6.5% or is less than 0%, the maximum monthly charge in paragraph (n)(1)(ii) of this section will be adjusted in the same manner as the adjustment in section 69.152(d)(2).

(o)(1) Beginning on January 1, 2002, except as provided in paragraph (r), the maximum monthly End User Common Line Charge for multi-line business lines will be the lesser of:

(i) \$9.20; or

(ii) one-twelfth of the projected annual revenue requirement for the End User Common Line element divided by the projected average number of local exchange service subscriber lines in use during such annual period;

(2) In the event that GDP-PI is greater than 6.5% or is less than 0%, the maximum monthly charge in paragraph (o)(1)(i) of this section will be adjusted in the same manner as the adjustment in section 69.152(k)(2).

(p) Beginning January 1, 2002, non-price cap local exchange carriers shall assess

(1) no more than one End User Common Line charge as calculated under the applicable method under paragraph (n) of this section for Basic Rate Interface integrated services digital network (ISDN) service.

(2) no more than five End User Common Line charges as calculated under paragraph (o) of this section for Primary Rate Interface ISDN service.

(q) In the event a non-price cap local exchange carrier charges less than the maximum End User Common Line charge for any subscriber lines, the carrier may not recover the difference between the amount collected and the maximum from carrier common line charges, Interstate Common Line Support, or Long Term Support.

(r) *End User Common Line Charge Deaveraging.* Beginning on January 1, 2002, non-price cap local exchange carriers may geographically deaverage End User Common Line charges subject to the following conditions.

- (1) In order for a non-price cap local exchange carrier to be allowed to deaverage End User Common Line charges within a study area, the non-price cap local exchange carrier must have:
 - (i) state commission-approved geographically deaveraged rates for UNE loops within that study area; or
 - (ii) a universal service support disaggregation plan established pursuant to section 54.315.
- (2) All geographic deaveraging of End User Common Line charges by customer class within a study area must be according to the state commission-approved UNE loop zone, or the universal service support disaggregation plan established pursuant to section 54.315.
- (3) Within a given zone, Multi-line Business End User Common Line rates cannot fall below Residential and Single-Line Business rates.
- (4) For any given class of customer in any given zone, the End User Common Line Charge in that zone must be greater than or equal to the End User Common Line charge in the zone with the next lower cost per line.
- (5) A non-price cap local exchange carrier shall not receive more through deaveraged End User Common Line charges than it would have received if it had not deaveraged its End User Common Line charges.
- (6) *Maximum charge.* The maximum zone deaveraged End User Common Line Charge that may be charged in any zone is the applicable cap specified in § 69.104(n) or § 69.104(o).
- (7) *Voluntary Reductions.* A "Voluntary Reduction" is one in which the non-price cap local exchange carrier charges End User Common Line rates below the maximum charges specified in paragraphs (n)(1) or (o)(1) other than through offset of net increases in End User Common Line charge revenues or through increases in other zone deaveraged End User Common Line charges.

14. Section 69.105 is revised by amending paragraph (a) and adding a new paragraph (f) as follows:

§ 69.105 Carrier common line for non-price cap local exchange carriers.

(a) This section is applicable only to local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. Until June 30, 2003, a charge that is expressed in dollars and cents per line per access minute of use shall be assessed upon all interexchange carriers that use local exchange common line facilities for the provision of interstate or foreign telecommunications services, except that the charge shall not be assessed upon interexchange carriers to the extent they resell MTS or MTS-type services of other common carriers (OCCs).

* * *

(f) From July 1, 2002, to June 30, 2003, the carrier common line charge calculations pursuant to this section shall be limited to an amount equal to the number of projected residential and single-line business lines multiplied by the difference between the residential and single-line business End User Common Line rate cap and the lesser of \$6.50 or the non-price cap local exchange carrier's average cost per line.

15. Section 69.106 is revised by amending paragraph (g) and adding paragraph (h) as follows:

§ 69.106 Local switching.

* * *

(g) A local exchange carrier may recover signaling costs associated with call setup through a call setup charge imposed upon all interstate interexchange carriers that use that local exchange carrier's facilities to originate or terminate interstate interexchange or foreign services. This charge must be expressed as dollars and cents per call attempt and may be assessed on originating calls handed off to the interexchange carrier's point of presence and on terminating calls received from an interexchange carrier's point of presence, whether or not that call is completed at the called location. Local exchange carriers may not recover through this charge any costs recovered through other rate elements.

(h) Except as provided in § 69.118, non-price cap local exchange carriers may establish rate elements for local switching as follows:

(1) Non-price cap local exchange carriers may separate from the projected annual revenue requirement for the Local Switching element those costs projected to be incurred for ports (including cards and DS1/voice-grade multiplexers required to access end offices equipped with analog switches) on the trunk side of the local switch. Non-price cap local exchange carriers electing to assess these charges shall further identify costs incurred for dedicated trunk ports separately from costs incurred for shared trunk ports.

(i) Non-price cap local exchange carriers electing to assess trunk port charges shall recover dedicated trunk port costs identified pursuant to paragraph (h)(1) of this section through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

(ii) Non-price cap local exchange carriers electing to assess trunk port charges shall recover shared trunk port costs identified pursuant to paragraph (h)(1) of this section through charges assessed upon purchasers of shared transport. This charge shall be expressed in dollars and cents per access minute of use. The charge shall be computed by dividing the projected costs of the shared ports by the historical annual access minutes of use calculated for purposes of recovery of common transport costs in § 69.111(c).

(2) Non-price cap local exchange carriers shall recover the projected annual revenue requirement for the Local Switching element that are not recovered in paragraph (h)(1) of this section through charges that are expressed in dollars and cents per access minute of use and assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign services. The maximum charge shall be computed by dividing the projected remainder of the annual revenue requirement for the Local Switching

element by the historical annual access minutes of use for all interstate or foreign services that use local exchange switching facilities.

16. Section 69.111 is revised by adding a new paragraph (m) as follows:

§ 69.111 Tandem-switched transport and tandem charge.

* * *

(m) In addition to the charges described in this section, non-price cap local exchange carriers may establish separate charges for multiplexers and dedicated trunk ports used in conjunction with the tandem switch as follows:

- (1)(i) Non-price cap local exchange carriers may establish a flat-rated charge for dedicated DS3/DS1 multiplexing on the serving wire center side of the tandem switch provided in conjunction with dedicated DS3 transport service from the serving wire center to the tandem switch. This charge shall be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the number of DS3 trunks provisioned for that interexchange carrier between the serving wire center and the tandem switch.
- (ii) Non-price cap local exchange carriers may establish a flat-rated charge for dedicated DS1/voice-grade multiplexing provided on the serving wire center side of analog tandem switches. This charge may be assessed on interexchange carriers purchasing tandem-switched transport in proportion to the interexchange carrier's transport capacity on the serving wire center side of the tandem.
- (2) Non-price cap local exchange carriers may recover the costs of dedicated trunk ports on the serving wire center side of the tandem switch through flat-rated charges expressed in dollars and cents per trunk port and assessed upon the purchaser of the dedicated trunk terminating at the port.

17. Section 69.124 is revised by amending paragraph (a) as follows:

§ 69.124 Interconnection charge.

(a) Until December 31, 2001, local exchange carriers not subject to price cap regulation shall assess an interconnection charge expressed in dollars and cents per access minute upon all interexchange carriers and upon all other persons using the telephone company switched access network.

* * *

18. Section 69.130 is added as follows:

§ 69.130 Line port costs in excess of basic analog service.

To the extent that the costs of ISDN line ports, and line ports associated with other services, exceed the costs of a line port used for basic, analog service, non-price cap local exchange carriers may recover the difference through a separate monthly end-user charge, provided that no portion of such excess cost may be recovered through other common line access charges, or through Interstate Common Line Support.

19. Section 69.131 is added as follows:

§ 69.131 Universal service end user charges.

To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to sections 54.706 and 54.709 of this chapter and the non-price cap local exchange carrier seeks to recover some or all of the amount of such contribution, the non-price cap local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users. The charge to recover these contributions is not part of any other element established pursuant to part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the local exchange carrier it may be combined for billing purposes with other end user retail rate elements. A non-price cap local exchange carrier opting to assess the Universal Service end-user rate element on a per-line basis may apply that charge using the "equivalency" relationships established for the multi-line business PICC for Primary Rate ISDN service, as per § 69.153(d), and for Centrex lines, as per § 69.153(e).

20. Section 69.306(d) is revised by amending paragraph (d) as follows:

§ 69.306 Central office equipment (COE).

* * *

(d) COE Category 3 (Local Switching Equipment) shall be assigned to the Local Switching element except as provided in paragraph (a) of this section; and that,

- (1) for telephone companies subject to price cap regulation set forth in part 61 of this chapter, line-side port costs shall be assigned to the Common Line rate element; and
- (2) Beginning January 1, 2002, for non-price cap local exchange carriers, line-side port costs shall be assigned to the Common Line rate element. Such amount shall be determined after any local switching support has been removed from the interstate Local Switching revenue requirement. Non-price cap local exchange carriers may use thirty percent of the interstate Local Switching revenue requirement, minus any local switching support, as a proxy for allocating line port costs to the Common Line category.

* * *

21. Section 69.307 is revised by amending paragraph (c) and adding a new paragraph (e) as follows:

§ 69.307 General support facilities.

* * *

(c)(1) Until June 30, 2002, for all local exchange carriers not subject to price cap regulation and for other carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the

basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

- (2) Beginning July 1, 2002, for all local exchange carriers that acquire all of the billing and collection services that they provide to interexchange carriers from unregulated affiliates through affiliate transactions, from unaffiliated third parties, or from both of these sources, all other General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

* * *

(e) Beginning July 1, 2002, for non-price cap local exchange carriers not covered by Section 69.307(c)(2), a portion of General purpose computer investment shall be apportioned to the billing and collection category on the basis of the Big Three Expense Factors allocator, defined in Section 69.2 of this Part, modified to exclude expenses that are apportioned on the basis of allocators that include General Support Facilities investment. The remaining General Support Facilities investments shall be apportioned among the interexchange category, the billing and collection category, and Common Line, Local Switching, Information, Transport, and Special Access Elements on the basis of Central Office Equipment, Information Origination/Termination Equipment, and Cable and Wire Facilities, combined.

22. Section 69.415 is added to read as follows:

§ 69.415 Reallocation of certain transport expenses.

(a) Beginning January 1, 2002, non-price cap local exchange carriers shall reallocate a portion of the costs otherwise assigned to the transport category to the common line, local switching, information, and special access elements.

(b) The amount to be reallocated is limited to the total revenues recovered through the interconnection charge assessed pursuant to section 69.124 for the 12-month period ending June 30, 2001.

(c) The reallocation of the amount in paragraph (b) shall be based on each access element's projected revenue requirement divided by the total revenue requirement of all the access elements, provided that:

- (1) Local switching support shall not be included in the local switching category's projected revenue requirement, or in the total projected revenue requirement;
- (2) A non-price cap local exchange carrier's universal service contribution shall not be included in the numerator or the denominator of the allocation formula;
- (3) The amount determined in paragraph (b) shall be excluded from the transport revenue requirement and from the total projected revenue requirement for purposes of the allocation calculations; and
- (4) The common line revenue requirement shall include long term support as provided in section 54.303 and, beginning July 1, 2002, shall include Interstate Common Line Support as provided in section 54.901.

23. Section 69.501 is revised by amending paragraphs (b), (c), and (e) and by adding a new paragraph (f) as follows:

§ 69.501 General.

* * *

(b) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to CPE investment or expense or surrogate CPE investment or expense shall be assigned to the Carrier Common Line element or elements.

(c) Until December 31, 2001, any portion of the Common Line element annual revenue requirement that is attributable to customer premises wiring included in IOT investment or expense shall be assigned to the Carrier Common Line element or elements.

* * *

(e) Until December 31, 2001, any portion of the Common Line element revenue requirement that is not assigned to Carrier Common Line elements pursuant to paragraphs (b) and (c) of this section shall be apportioned between End User Common Line and Carrier Common Line pursuant to § 69.502. Such portion of the Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

(f) Beginning January 1, 2002, the Common Line element revenue requirement shall be apportioned between End User Common Line and Carrier Common Line pursuant to section 69.502. The Common Line element annual revenue requirement shall be described as the base factor portion for purposes of this subpart.

24. Section 69.502 is revised by adding new paragraphs (d) and (e) as follows:

§ 69.502 Base factor allocation.

* * *

(d) Beginning July 1, 2002, the portion of per-line support that carriers receive pursuant to § 54.901; and

(e) Line port costs in excess of basic analog service pursuant to section 69.130.

25. Section 69.603 is revised by adding a new sentence immediately before the last sentence of paragraph (g) and a new sentence at the end of paragraph (h)(5) as follows:

§ 69.603 Association functions.

* * *

(g) * * * Beginning July 1, 2002, Interstate Common Line Support revenues shall be included in the allocation base for Category I.B expenses. * * *

(h) * * *

(5) Beginning July 1, 2002, Interstate Common Line Support shall be subject to this provision.

* * *

26. Section 69.609 is revised by adding a second sentence to paragraph (b) as follows:

§ 69.609 End User Common Line hypothetical net balances.

* * *

(b) * * * For purposes of this calculation, access revenues collected shall include any revenues foregone because of a voluntary reduction made pursuant to section 69.104(r)(7).

APPENDIX B

PARTIES FILING COMMENTS AND REPLY COMMENTS
IN CC DOCKET NO. 00-256

Comments:

<u>Commenters</u>	<u>Abbreviation</u>
1. Ad Hoc Telecommunications Users Committee	Ad Hoc
2. Alabama Rural LECs	
3. Alaska, Regulatory Commission of	Alaska Commission
4. Alaska Rural Coalition	
5. Alaska Telephone Association	Alaska Tel. Assoc.
6. Arizona Local Exchange Carriers Association	Arizona LECs Assoc.
7. Association of Communications Enterprises	Assoc. of Comm'ns Enterprises
8. AT&T Corp.	AT&T
9. BellSouth Corp. and BellSouth Telecommunications, Inc.	BellSouth
10. California, People of and Public Utilities Commission	California Commission
11. Competitive Universal Service Coalition	
12. Evans Tel. Co., Humboldt Tel. Co., Kerman Tel. Co., Oregon-Idaho Utilities, Inc., Pine Tree Tel. & Telegraph Co., Pinnacles Tel. Co., The Ponderosa Tel. Co., The Siskiyou Tel. Co., The Volcano Tel. Co., War Tel. Co.	Evans Tel. Co., <i>et al.</i>
13. Florida Public Service Commission	Florida Commission
14. General Communication, Inc.	GCI
15. General Services Administration	GSA
16. Global Crossing North America, Inc.	Global Crossing
17. GVNW Consulting, Inc.	GVNW Consulting
18. ICORE, Inc.	ICORE
19. Illinois Commerce Commission	Illinois Commission
20. Independent Tel. & Telecommunications Alliance	ITTA
21. Indiana Utility Regulatory Commission	Indiana Commission
22. Innovative Telephone	
23. Interstate Telcom Group	
24. ITCs, Inc.	ITCs
25. Missouri Public Service Commission	Missouri Commission
26. Multi-Association Group	MAG
27. National Association of State Utility Consumer Advocates	NASUCA
28. New York State Department of Public	

Service	NYDPS
29. Ohio Telecommunications Industry Association	Ohio Telecom. Industry Assoc.
30. Plains Rural Independent Companies	Plains Rural Indep. Cos.
31. Qwest Communications International, Inc.	Qwest
32. Rate-of-Return Coalition	
33. Roseville Telephone Company	Roseville Tel. Co.
34. Rural Independent Competitive Alliance	Rural Indep. Competitive Alliance
35. Small Company Members of the Telephone Association of New England	New England Tel. Assoc., Small Co. Members
36. Sprint Corporation	Sprint
37. John Staurulakis, Inc.	John Staurulakis
38. Telcom Consulting Associates, Inc.	Telcom Consulting Assoc.
39. TDS Telecommunications Corp.	TDS
40. Texas, Public Utility Commission of	Texas Commission
41. Townes Telecommunications, Inc.	Townes Telecom.
42. Western Alliance	
43. Fred Williamson & Associates, Inc.	Fred Williamson & Assoc.
44. Wisconsin, Public Service Commission of	Wisconsin Commission
45. WorldCom, Inc.	WorldCom

Reply Comments:

Reply Commenters

1. Ad Hoc Telecommunications Users Committee
2. Alaska, Regulatory Commission of
3. Alaska Rural Coalition
4. Alaska, State of
5. Alliance of Independent Rural Telephone Companies
6. AT&T Corp.
7. California, People of and Public Utilities Commission
8. Dunkirk and Fredonia Tel. Co.
9. Excel Communications, Inc.
10. General Services Administration
11. GVNW Consulting, Inc.
12. Hawaii, State of
13. Innovative Telephone
14. Interstate Telcom Group
15. Iowa Utilities Board
16. Minnesota Independent Coalition
17. Multi-Association Group
18. Plains Rural Independent Companies
19. Puerto Rico Telephone Company, Inc.
20. Rate-of-Return Coalition

Abbreviation

Ad Hoc
Alaska Commission

State of Alaska

Alliance of Indep. Rural Tel. Cos.
AT&T

California Commission

Excel Comm'ns
GSA
GVNW Consulting
State of Hawaii

Minnesota Indep. Coalition
MAG
Plains Rural Indep. Cos.
Puerto Rico Tel. Co.

21. Ronan Telephone Company	Ronan Tel. Co.
22. Ronan Telephone Consumer Advisory Committee	Ronan Tel. Consumer Advisory Committee
23. Roseville Telephone Company	Roseville Tel. Co.
24. Rural Independent Competitive Alliance	Rural Indep. Competitive Alliance
25. John Staurulakis, Inc.	John Staurulakis
26. Summit Tel. Co., Inc.	Summit Tel. Co.
27. Telcom Consulting Associates, Inc.	Telcom Consulting Assoc.
28. TDS Telecommunications Corp.	TDS
29. Verizon Communications Inc.	Verizon
30. Western Alliance	
31. WorldCom, Inc.	WorldCom
32. Wyoming Public Service Commission	Wyoming Commission

SEPARATE STATEMENT OF CHAIRMAN MICHAEL K. POWELL

Re: Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report and Order in CC Docket No. 96-45, and Report and Order in CC Docket Nos. 98-77 and 98-166

By this action, the Commission takes another important step forward in its efforts to reform our access charge and universal service regulatory regimes to make them more consistent with the mandate for competition codified in the 1996 Telecommunications Act. I write separately to clarify a few points and to underscore my support for this action, which flows from the ample record developed in response to the Multi-Association Group (MAG) proposal for reforming rural access charges, as well as from notices and orders previously adopted by the Commission.

As I have stated on other occasions, I believe firmly that the goal of our access and universal service reforms should be to bring the benefits of competition and greater choice to consumers, while ensuring that all Americans continue to have access to affordable and reasonably comparable telephone service. The social and economic imperative of reaching this goal is nowhere more pronounced than with respect to those who live in the rural and high-cost areas served by many rate of return LECs.

Throughout the extensive proceedings that led to this decision, the Commission has consistently maintained an open and transparent process, and this *Order* reflects careful consideration of all comments and suggestions received. As early as 1997, the Commission initiated a comprehensive review of interstate access charges and universal service. The Commission's earliest actions in this regard reformed access charges for price cap incumbent LECs, *i.e.*, the largest incumbents.

The Commission has always recognized, however, that "one size does not fit all" when addressing the needs of rural and small companies. Therefore, the Commission decided to handle rural access reform separately from access reform for the larger carriers. This separate treatment has allowed the Commission to focus on both the specific needs of rural and small carriers and commenters' suggestions on how best to address those needs.

Even within the rural LEC component of our access reform effort, the Commission's process has been extensive. For example:

- In 1998, the Commission issued a Notice of Proposed Rulemaking which generated an extensive record regarding proposals for rural access reform. Thus, the Commission began its deliberations regarding rural access reform more than three years ago, and more than two years before the MAG proposal was even submitted to us.
- In early 2001, the Commission issued another Notice to expand the record further by seeking comment on whether the MAG proposal for access reform should be adopted in whole, in part, or not at all. The comment period for this Notice closed seven months ago.

- Over the past seven months, the Commission has carefully evaluated the extensive responses to its 1998 Notice, as well as comments on the MAG proposal from several dozen diverse parties. These parties have included incumbent rate of return LECs, state commissions, interexchange carriers, competitive LECs, consumer groups and their representatives.
- Additionally, the Commission has met repeatedly with parties including MAG and made note of industry concerns with regard to access reform precedents and policy.

Throughout the months and years the Commission has devoted to rural access charge reform, numerous parties representing a variety of interests have urged us to press forward expeditiously. Many of these parties were concerned, as I am, that we not subject communities served by rural LECs to the same regulatory barriers to competition that we struggled to remove in the context of price cap access reform.

Now that all interested parties have had a substantial opportunity to comment on the MAG proposal as well as on prior proposals, the time has come for the Commission to proceed with access charge and universal service reform for rate of return carriers. I applaud the MAG industry group for its efforts to bring a plan to the Commission for its consideration. The Commission's duty, however, is to exercise independent judgment that advances the *public* interest, rather than the interests of one side or the other. In doing so, we have declined to adopt the MAG plan in its entirety, taking account of other important interests and concerns.

Thus, the approach we adopt here incorporates major features of the MAG proposal, while addressing valid concerns raised by the extensive input from interested commenters. It represents a cautious approach that would rationalize the rate structure and convert identifiable implicit subsidies in access charges to explicit universal service support, without endangering overall revenues for rate of return carriers. Consequently, this approach should enable incumbent carriers and competitors to compete on an equal footing in rural areas and increase incentives for long distance carriers to compete for customers in rural areas.

Further, I believe the approach we take here will promote regulatory stability for small local telephone companies, and encourage investment in rural America, by creating a new, portable universal service support mechanism. This mechanism is intended to ensure that changes in the access rate structure do not affect small carriers' overall recovery of their interstate access costs.

Resolving issues this complex requires tough choices, which cannot continually be put off and which are rarely greeted with unanimous popular acclaim. Yet the Commission's role is not to play to its various audiences but to make these tough choices, guided by principle, the record and our best judgment. It is my conviction that we have, in performing this role, assiduously considered and balanced the input of a variety of interested parties that leads me to support this *Order* and the enormous hard work that my colleagues and our staff have invested in its fruition.

**SEPARATE STATEMENT OF
COMMISSIONER KEVIN J. MARTIN**

Re: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 00-256

I write separately to explain my reservations with this Order and why I nevertheless join in approving it. I am sympathetic to the calls of many rural carriers to seek more comment before moving forward on this item. Having seen the Commission fail to reach these issues for years despite the pleas of the carriers, it seems somewhat ironic that the Commission feels it necessary to do so now, when the carriers would like the Commission to wait.

Nevertheless, after careful consideration, I am convinced that growing disparities between the access rates of rural, rate-of-return and other, price cap carriers should be addressed sooner rather than later. These disparities can create problems in conjunction with our rate averaging and rate integration policies, which require IXC's to charge rates in rural and high cost areas that are no higher than rates they charge in urban areas and to charge comparable rates in each State. See 47 U.S.C. § 254(g); *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, Report and Order, 11 FCC Rcd 9564, ¶¶ 9, 20, 52. As a result, IXC's that serve rural and high cost areas must charge higher rates to all of their customers than IXC's that do not serve such areas. As rate disparities grow, the pressure for IXC's to stop serving rural and high cost areas also grows; IXC's will either lose money serving these rural areas or will be forced to charge higher rates in low cost areas than their competitors. Without Commission action, I fear that these rate disparities may lead IXC's to exit rural and high cost markets altogether, causing great harm to rural America. This Order, in reforming the access rate structure of largely rural rate-of-return carriers, reduces these growing disparities and begins to address this problem.

I also note that I have some concerns with the Commission's policy – adopted long before this Order – of using universal support as a means of creating “competition” in high cost areas. I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. This policy may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund. It is thus with real pause that I sign on to an Order that may further this policy.

I will continue to examine these issues as well as the other concerns raised regarding the impact that our policies may have on rural America. And, in that vein, I am committed to evaluating these issues and remain receptive to making significant changes as we move forward.

**DISSENTING STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Re: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers

Notwithstanding the tremendous importance of addressing access charge reform for rural carriers, I respectfully dissent from today's order. While we must move forward as expeditiously as possible to complete this process, it is dangerous to proceed prematurely to an order before we know the full implications of our actions. Rural carriers, consumer advocates, and state commissions, among others, express great apprehension about the impact of today's decision. I find no clear consumer benefits from moving ahead before we get all of the facts and air all of the concerns. In sum, I fear that we are outdriving our headlights.

I believe the more prudent course of action would have been to seek comment on the new proposal the Commission adopts today in order to ensure that it achieves the objectives Congress laid out in the Telecommunications Act of 1996.

A core principle of the 1996 Act is that all Americans should have access to reasonably comparable services at reasonably comparable rates. At the same time, given the goal of competition in all telecommunications markets, Congress directed us to establish a universal service support mechanism that is explicit and sufficient in a competitive market. As we restructure rates and make explicit the hidden subsidies in access charges, we must recognize that these implicit subsidies were used to finance affordable services.

It is not easy to work out the details of a new regime. Last year, rural carriers and their associations proposed a comprehensive plan to resolve numerous issues facing rural carriers, including reform of access charges and universal service support, and a new incentive form of regulation. This proposal became known as the Multi-Association Group (MAG) plan. Other carriers including IXC's and wireless carriers submitted their own proposal to address certain of these issues.

The majority today takes up a piece of the comprehensive MAG plan – access charge reform – but adopts significant modifications to the proposals submitted to the Commission. Some argue that it would be an extraordinary measure to seek additional comment on the Commission's proposals. Given the breadth of concerns that have been raised, and the lack of opportunity for affected parties to analyze this new proposal, I think it would be extraordinary not to seek additional comment.

Many parties have raised significant concerns. We have heard from rural carriers concerned about the impact of today's action on telecommunications investment in rural areas, including broadband investment; from state commissions concerned about the harmful impact on universal service support mechanisms; and from consumer advocates concerned about increased consumer rates that will likely result from this order. This being the case, and when the task before us is so complicated, I believe in this instance it is incumbent on us to err on the side of caution to ensure that the actions we take are wise rather than merely expeditious.

I do not advocate delay lightly. But were we to put this proposal out for comment and continue to give these issues the high priority they deserve, we could address all these concerns and adopt a final order in a few months -- in time to implement access charge reform by July 1, which is, I would point out, the *same date* for implementation of the new support mechanism contained in today's order. The cost of gathering more information would therefore be minor, and the benefits multiple.

As it stands, however, without airing and receiving comments on the contours of the reforms adopted today, I have serious concerns that we do not understand the full impact of today's decision on rural America. For rural carriers, access charges and universal service comprise the substantial majority of their revenue stream. The goal of access charge reform must be not only to remove, and make explicit, the implicit subsidies in access charges, but must also provide the stability necessary for investment in rural America. It is essential that any regime we adopt increases certainty so that rural carriers can plan for the future and undertake necessary investment to modernize the telecommunications infrastructure in their communities. I am concerned by claims that this order will, to the contrary, increase uncertainty for rural carriers, impeding infrastructure investment and broadband deployment.

I am further concerned about the effect of this order on consumer rates, particularly for those who live in rural areas. As we transition to a new access charge regime, it is imperative that we prevent upward pressure on rates in high-cost areas. Rural consumers will only benefit when we establish an economically rational mechanism that will promote not only the Act's objective of competition, but also its goal of universal service.

The Commission has already made substantial progress towards ensuring that universal service and access charge regimes have been adapted to the changing marketplace. We have adopted universal service reforms for both rural and non-rural carriers. And we have identified, and made explicit, the subsidies embedded in access charges for price cap carriers in order to reduce distortions in the marketplace that serve as impediments to competition. In this instance, I believe the Commission needs more information to ensure that the action we take is in the public interest. The public interest can be well and faithfully served if we accord this far-reaching new proposal the stakeholder input it deserves. This can be done quickly and with much more consensus at the end of the process than we will otherwise have today.